

EXHIBIT A

SUM-100

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

AMAZON.COM SERVICES LLC, a corporate entity form unknown; and DOES 1-50, inclusive,

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

DAVID REYES, an individual;

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

FEB 28 2022

BY 
EDUARDO HERNANDEZ, DEPUTY

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is: San Bernardino District- Civil Division
(El nombre y dirección de la corte es): 247 W. Third St
San Bernardino, CA 92415

CASE NUMBER: (Número del caso):
CIV SB 2201928

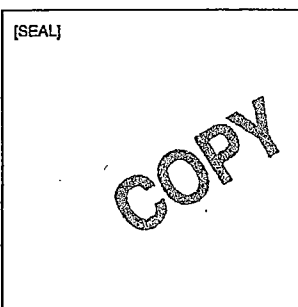
The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Jihad M. Smaili (SBN: 262219); Smaili & Associates, PC; 600 West Santa Ana Blvd., Suite 202, Santa Ana, CA 92701; 714-547-4700

DATE:  Clerk, by **EDUARDO HERNANDEZ**, Deputy
(Fecha) **FEB 28 2022** (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☒ on behalf of (specify): **AMAZON.COM SERVICES LLC**
under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date)

Page 1 of 1

Jihad M. Smaili, Esq. [262219]
 Stephen D. Counts, Esq. [231348]
SMAILI & ASSOCIATES, PC
 Civic Center Plaza Towers
 600 W. Santa Ana Blvd., Suite 202
 Santa Ana, California 92701
 714-547-4700
 714-547-4710 (facsimile)
ijihad@smaililaw.com
stephen@smaililaw.com

Attorneys for Plaintiff

FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF SAN BERNARDINO
 SAN BERNARDINO DISTRICT

FEB 22 2022

BY 
 EDUARDO HERNANDEZ, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

DAVID REYES, an individual;

 Plaintiff,

v.

AMAZON.COM SERVICES LLC, a
 corporate entity form unknown; and
 DOES 1-50, inclusive,

 Defendants.

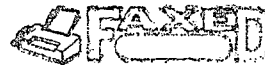
) Case No.:
) Assigned for all purposes to the

COMPLAINT:

CIV SB 2201928

1. Discrimination in Violation of Gov. Code §12940 *et seq.*
2. Failure to Accommodate in Violation of Gov. Code § 12940(m)
3. Failure to Engage in Interactive Process in Violation of Gov. Code § 12940(n)
4. Failure to Prevent Discrimination in Violation of Gov. Code § 12940(k)
5. Retaliation in Violation of Gov. Code §12940(h)
6. Wrongful Termination
7. Violation of Business & Professions Code § 17200 *et seq.*

DEMAND FOR JURY TRIAL
UNLIMITED JURISDICTION



COMPLAINT

Smaili & Associates, P.C.

1 Plaintiff David Reyes (hereinafter "Plaintiff" and/or "Reyes") alleges as follows:

2 **THE PARTIES**

3 1. At all times mentioned herein, and at the time the causes of action arose,
4 Plaintiff was and is an individual.

5 2. Plaintiff is informed and believes and thereon alleges that at all times
6 mentioned herein, Defendant Amazon.com Services LLC, (hereinafter "Amazon"), is a
7 corporate entity, form unknown, regularly conducting business in the State of California,
8 and specifically, in the County of San Bernardino. Plaintiff is further informed and
9 believes and thereon alleges that Amazon was transacting business in the County of San
10 Bernardino, State of California, at the time claims of Plaintiff arose. At all times
11 relevant, Amazon was an employer within the meaning of *Government Code* §12926(d)
12 and as such was barred from, *inter alia*, harassing, discriminating or retaliating against
13 Plaintiff in personnel, scheduling, employment, promotion, advancement, retention,
14 hiring, terminating and other decisions relating to Plaintiff's employment on the basis of
15 age, race, physical disability or medical condition, participation in protected activity, and
16 other immutable characteristics.

17 3. The true names and capacities, whether individual, corporate, associate, or
18 otherwise, of Defendants DOES 1—50, inclusive, are currently unknown to Plaintiff,
19 who therefore sues said Defendants by such fictitious names. Plaintiff will seek leave to
20 amend this complaint to show their true names and capacities when ascertained. Plaintiff
21 is informed and believes and thereon alleges that each Defendant named herein as a DOE
22 was responsible in some manner for the occurrences and damages alleged herein.

23 4. Each reference in this complaint to "Defendant" and/or "Defendants" refers
24 to Amazon, and also refers to all Defendants sued under fictitious names, jointly and
25 severally.

26 5. Plaintiff is informed and believes and thereon alleges that Defendants, and
27 each of them, are now and/or at all times mentioned in this Complaint were in some
28 manner legally responsible for the events, happenings and circumstances alleged in this

1 Complaint. Plaintiff is further informed and believes and thereon alleges that
 2 Defendants, and each of them, proximately subjected Plaintiff to the unlawful practices,
 3 wrongs, complaints, injuries and/or damages alleged in this Complaint. Likewise,
 4 Defendants, and each of them are now and/or at all times mentioned in this Complaint
 5 were the agents, servants and/or employees of some or all other Defendants, and vice-
 6 versa, and in doing the things alleged in this Complaint, Defendants are now and/or at all
 7 times mentioned in this Complaint were acting within the course and scope of that
 8 agency, servitude and/or employment.

9 6. Plaintiff is informed and believes and thereon alleges that Defendants, and
 10 each of them, are now and/or at all times mentioned in this Complaint were members of
 11 and/or engaged in a joint venture, partnership and common enterprise, and were acting
 12 within the course and scope of, and in pursuance of said joint venture, partnership and
 13 common enterprise.

14 7. Plaintiff is informed and believes and thereon alleges that Defendants, and
 15 each of them, at all times mentioned in this Complaint, concurred and contributed to the
 16 various acts and omissions of each and every one of the other Defendants in proximately
 17 causing the complaints, injures and/or damages alleged in this Complaint. Plaintiff is
 18 further informed and believes and thereon alleges that Defendants, and each of them, at
 19 all times mentioned in this Complaint, approved of condoned and/or otherwise ratified
 20 each and every one of the acts and/or omissions alleged in this Complaint. Likewise,
 21 Defendants, and each of them, at all times mentioned in this Complaint aided and abetted
 22 the acts and omissions of each and every one of the other Defendants thereby proximately
 23 causing the damages alleged in this Complaint.

24 8. Plaintiff is informed and believes and thereon alleges that at all actions
 25 alleged herein committed by Defendants were committed by managing agents of
 26 Defendants, or, such conduct was known by and/or ratified by managing agents of
 27 Defendants.

28 ///

COMPLAINT

1 **VENUE AND JURISDICTION**

2 9. Venue is proper in this county and this Court has jurisdiction over this
3 matter because Defendants operate out of Rialto, California, and, all of the claims and
4 causes of action alleged herein occurred and accrued in the County of San Bernardino,
5 State of California.

6 **FACTUAL BACKGROUND**

7 10. In or around July 2020, Defendant hired Plaintiff as warehouse employee.
8 His job duties included, but were not limited to, scanning boxes and stacking them on
9 pallets. Plaintiff worked hard and earned an hourly wage of \$15.00.

10 11. Due to the repetitive and physical nature of his job duties, Plaintiff started
11 experiencing pain in his knees. As his pain worsened, he started having to go increasingly
12 to therapy and to the doctor. He went to see an orthopedic doctor and got MRIs. Although
13 Defendant knew about Plaintiff's work-related disability, Defendant did not provide
14 workers' compensation paperwork, did not engage in a good faith interactive process, and
15 did not provide a reasonable accommodation.

16 12. On or about September 10, 2020, the pain became unbearable and so
17 Plaintiff called in for a leave of absence from work. Despite being aware of his disability,
18 Defendant again failed to provide Plaintiff with workers compensation paperwork, failed
19 to engage him in a good faith interactive process, and failed to provide a reasonable
20 accommodation for his disability.

21 13. On or about September 23, 2020, Plaintiff was diagnosed with "Runner's
22 Knees" and was given work restrictions by his doctor not to stand for long hours. Plaintiff
23 suggested to Defendant that his work hours be limited to just 5 ½ hours per shift; yet,
24 Defendant egregiously declined to provide this simple accommodation. Again, Defendant
25 failed to provide Plaintiff with workers compensation paperwork, failed to engage him in
26 a good faith interactive process, and failed to provide a reasonable accommodation for his
27 disability.

1 14. On or about October 27, 2020, in retaliation for his disability and requests
2 for accommodation, Plaintiff received a letter from Defendant that said that they were
3 unable to accommodate him, effectively terminating him. Defendant incredulously
4 claimed that there were no positions available for Plaintiff, though this is patently and
5 demonstrably false.

6 15. Plaintiff is informed and believes that he suffered from harassment,
7 discrimination, retaliation, and ultimately termination on the basis of his disability,
8 requesting accommodation, and engagement in protected activity. Further, Defendant
9 utterly failed to provide workers' compensation paperwork, failed to engage in a good
10 faith interactive process, and failed to offer any reasonable accommodation.

11 16. Before filing this lawsuit, Plaintiff exhausted his administrative remedies
12 by timely filing a complaint with the Department of Fair Employment and Housing
13 (DFEH) and receiving a right-to-sue notice, dated March 29, 2021.

14 **FIRST CAUSE OF ACTION**

15 **DISCRIMINATION IN VIOLATION OF**

16 **CALIFORNIA GOVERNMENT CODE § 12940 *et seq.***

17 **(Against All Defendants)**

18 17. Plaintiff refers to all allegations contained in paragraphs 1-16, inclusive and
19 by such reference incorporates the same herein as though fully realleged in detail.

20 18. California law, and particularly the Fair Employment and Housing Act
21 ("FEHA"), codified at *Government Code* §12900 *et seq.*, prohibits discrimination against
22 persons with a physical condition or disability, which is broadly defined therein, and
23 which includes even the perception that a person has a medical or mental condition
24 and/or physical condition or disability. FEHA further prohibits discrimination based
25 upon, *inter alia*, age, race, gender, sexual orientation, national origin, pregnancy and
26 other immutable characteristics.

27 19. Plaintiff has a disability as alleged above.

28 20. Defendant was aware of Plaintiff's on-the-job injury and resulting

1 disability, as herein alleged, because Plaintiff specifically reported said disability directly
2 to Defendant via Defendant's supervisors and managing agents.

3 21. At all times herein alleged, Plaintiff was qualified for the position of
4 employment that he held with Defendant and was able to perform the essential functions
5 of that job.

6 22. Plaintiff is informed and believes and thereon alleges that as a direct and
7 proximate result of Plaintiff's disability, Defendant refused to engage Plaintiff in an
8 interactive process, refused to communicate with Plaintiff, refused to accommodate
9 Plaintiff, denied Plaintiff opportunity for advancement, promotion and the ability to earn
10 a living, and terminated Plaintiff.

11 23. Defendant's discriminatory action against Plaintiff, as alleged above,
12 constitutes unlawful discrimination in employment on account of Plaintiff's disability in
13 violation of FEHA, and particularly *Gov't Code* §12940(a).

14 24. As a direct, foreseeable, and proximate result of Defendant's discriminatory
15 action against Plaintiff, as herein alleged, Plaintiff has been harmed in that Plaintiff has
16 suffered the loss of wages, salary, benefits, the potential for advancement, and additional
17 amounts of money Plaintiff would have received but for Defendants' discriminatory
18 conduct, all in an amount subject to proof at the time of trial, but believed to be no less
19 than three hundred thousand dollars (\$300,000).

20 25. As a direct, foreseeable, and proximate result of the wrongful conduct of
21 Defendant as herein alleged, Plaintiff has also suffered and continues to suffer emotional
22 distress and anguish, humiliation, anxiety, and medical expenses all to his damage in an
23 amount subject to proof at trial.

24 26. Plaintiff is informed and believes and thereon alleges that the above-alleged
25 actions of Defendant were the result and consequence of Defendant's failure to supervise,
26 control, direct, manage, and counsel those agents throughout Plaintiff's employment and
27 that Defendant ratified, condoned and/or encouraged the discriminatory behavior and
28 enabled agents to believe that their conduct was appropriate.

1 27. Defendant, and each of them, failed to offer counseling or comfort to
2 Plaintiff and sent the unmistakable message that such conduct is appropriate in the
3 workplace.

4 28. Plaintiff is informed and believes and thereon alleges that Defendant has a
5 systemic and wide-spread policy of discriminating against and retaliating against
6 employees with disabilities. By failing to stop the discrimination, harassment and
7 retaliation, Defendant ratified the discriminatory and retaliatory conduct which, in turn,
8 directly caused a vicious cycle of wrongful conduct with impunity.

9 29. Plaintiff is informed and believes and thereon alleges that his disability was
10 a motivating factor in the decision of Defendant to discriminate against him and
11 terminate him.

12 30. The outrageous conduct of Defendant, and each of them, as alleged herein,
13 was done with oppression and malice by Defendant and its supervisors and managers,
14 along with conscious disregard of Plaintiff's rights, and were ratified by those other
15 individuals who were managing agents of Defendant.

16 31. The conduct of Defendant as alleged hereinabove was done with malice,
17 fraud or oppression, and in reckless disregard of Plaintiff's rights under California law.
18 As such, Plaintiff is entitled to punitive damages within the meaning of *Civ. Code* §3294.

19 32. Plaintiff also continues to incur attorneys' fees and legal expenses in an
20 amount according to proof at the time of trial which fees and expenses are recoverable
21 pursuant to *Gov't Code* §12900 *et seq.*

22 **SECOND CAUSE OF ACTION**

23 **FAILURE TO ACCOMMODATE DISABILITY IN VIOLATION OF** 24 **CALIFORNIA GOVERNMENT CODE § 12940(m)**

25 **(Against All Defendants)**

26 33. Plaintiff refers to all allegations contained in paragraphs 1-32, inclusive and
27 by such reference incorporates the same herein as though fully realleged in detail.

28 34. Plaintiff has a disability as alleged above.

COMPLAINT

1 35. Defendant was aware of Plaintiff's disability, as alleged above and herein.

2 36. Defendant failed and refused to accommodate Plaintiff's needs, and, failed
3 and refused to engage in an interactive process with Plaintiff, and, failed to address
4 Plaintiff's needs in light of his disabilities.

5 37. At all times herein alleged, Plaintiff was qualified for the position of
6 employment that he held with Defendant and was able to perform the essential functions
7 of that job if such reasonable accommodation had been made by Defendant. At no time
8 would the performance of the functions of the employment position, with a reasonable
9 accommodation for Plaintiff's disabilities, have been a danger to Plaintiff's or any other
10 person's health or safety, nor would it have created an undue hardship to the operation of
11 Defendant's business.

12 38. Defendant's failure to accommodate Plaintiff, as alleged above, constitutes
13 unlawful conduct in employment in violation of FEHA, and particularly *Gov't Code*
14 §12940.

15 39. As a direct, foreseeable, and proximate result of Defendant's wrongful
16 conduct against Plaintiff, as herein alleged, Plaintiff has been harmed in that Plaintiff has
17 suffered the loss of wages, salary, benefits, the potential for advancement, and additional
18 amounts of money Plaintiff would have received but for Defendant's wrongful conduct,
19 in an amount of at least three hundred thousand dollars (\$300,000), all subject to proof at
20 the time of trial.

21 40. As a direct, foreseeable, and proximate result of the wrongful conduct of
22 Defendant as herein alleged, Plaintiff has also suffered and continues to suffer emotional
23 distress and anguish, humiliation, anxiety, and medical expenses all to his damage in an
24 amount subject to proof at trial.

25 41. Plaintiff is informed and believes and thereon alleges that the above-alleged
26 actions of Defendant were the result and consequence of Defendant's failure to supervise,
27 control, direct, manage, and counsel those agents throughout Plaintiff's employment and
28 that Defendant ratified, condoned and/or encouraged the discriminatory behavior and

1 enabled agents to believe that their conduct was appropriate.

2 42. Defendant, and each of them, failed to offer counseling or comfort to
3 Plaintiff and sent the unmistakable message that such conduct is appropriate in the
4 workplace.

5 43. Plaintiff is informed and believes and thereon alleges that Defendant has a
6 systemic and wide-spread policy of discriminating against and retaliating against
7 employees with disabilities. By failing to stop the discrimination, harassment and
8 retaliation, Defendant ratified the discriminatory and retaliatory conduct which, in turn,
9 directly caused a vicious cycle of wrongful conduct with impunity.

10 44. Plaintiff is informed and believes and thereon alleges that Defendant's
11 desire to avoid accommodating Plaintiff was a motivating factor in the decision of
12 Defendant to discriminate against him and ultimately terminate him.

13 45. The outrageous conduct of Defendant, and each of them, as alleged herein,
14 was done with oppression and malice by Defendant and its supervisors and managers,
15 along with conscious disregard of Plaintiff's rights, and were ratified by those other
16 individuals who were managing agents of Defendant.

17 46. The conduct of Defendant as alleged hereinabove was done with malice,
18 fraud, or oppression, and in reckless disregard of Plaintiff's rights under California law.
19 As such, Plaintiff is entitled to punitive damages within the meaning of *Civ. Code* §3294.

20 47. Plaintiff also continues to incur attorneys' fees and legal expenses in an
21 amount according to proof at the time of trial which fees and expenses are recoverable
22 pursuant to *Gov't Code* §12900 *et seq.*

23 **THIRD CAUSE OF ACTION**

24 **FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS IN** 25 **VIOLATION OF CALIFORNIA GOVERNMENT CODE § 12940(n)** 26 **(Against All Defendants)**

27 48. Plaintiff refers to all allegations contained in paragraphs 1-47, inclusive and
28 by such reference incorporates the same herein as though fully realleged in detail.

1 49. Plaintiff has a disability as alleged above.

2 50. Defendant was aware of Plaintiff's disability, as alleged above and herein.

3 51. Defendant failed and refused to engage Plaintiff in an interactive process
4 designed to unite Plaintiff with his job.

5 52. At all times herein alleged, Plaintiff was qualified for the position of
6 employment that he held with Defendant and was able to perform the essential functions
7 of that job if such reasonable accommodation had been made by Defendant. At no time
8 would the performance of the functions of the employment position, with a reasonable
9 accommodation for Plaintiff's disabilities, have been a danger to Plaintiff's or any other
10 person's health or safety, nor would it have created an undue hardship to the operation of
11 Defendant's business.

12 53. Defendant's failure to engage with Plaintiff in an interactive process, as
13 alleged above, constitutes unlawful conduct in employment in violation of FEHA, and
14 particularly *Gov't Code* §12940.

15 54. As a direct, foreseeable, and proximate result of Defendant's wrongful
16 conduct against Plaintiff, as herein alleged, Plaintiff has been harmed in that Plaintiff has
17 suffered the loss of wages, salary, benefits, the potential for advancement, and additional
18 amounts of money Plaintiff would have received but for Defendant's wrongful conduct,
19 all in an amount no less than three hundred thousand dollars (\$300,000), subject to proof
20 at the time of trial.

21 55. As a direct, foreseeable, and proximate result of the wrongful conduct of
22 Defendant as herein alleged, Plaintiff has also suffered and continues to suffer emotional
23 distress and anguish, humiliation, anxiety, and medical expenses all to his damage in an
24 amount subject to proof at trial.

25 56. Plaintiff is informed and believes and thereon alleges that the above-alleged
26 actions of Defendant were the result and consequence of Defendant's failure to supervise,
27 control, direct, manage, and counsel those agents throughout Plaintiff's employment and
28 that Defendant ratified, condoned and/or encouraged the discriminatory behavior and

1 enabled agents to believe that their conduct was appropriate.

2 57. Defendant, and each of them, failed to offer counseling or comfort to
3 Plaintiff and sent the unmistakable message that such conduct is appropriate in the
4 workplace.

5 58. Plaintiff is informed and believes and thereon alleges that Defendant has a
6 systemic and wide-spread policy of discriminating against and retaliating against
7 employees with disabilities. By failing to stop the discrimination, harassment and
8 retaliation, Defendant ratified the discriminatory and retaliatory conduct which, in turn,
9 directly caused a vicious cycle of wrongful conduct with impunity.

10 59. Plaintiff is informed and believes and thereon alleges that Defendant's
11 desire to avoid accommodating Plaintiff was a motivating factor in the decision of
12 Defendant to discriminate against him and ultimately terminate him.

13 60. The outrageous conduct of Defendant, and each of them, as alleged herein,
14 was done with oppression and malice by Defendant and its supervisors and managers,
15 along with conscious disregard of Plaintiff's rights, and were ratified by those other
16 individuals who were managing agents of Defendant.

17 61. The conduct of Defendant as alleged hereinabove was done with malice,
18 fraud or oppression, and in reckless disregard of Plaintiff's rights under California law.
19 As such, Plaintiff is entitled to punitive damages within the meaning of *Civ. Code* §3294.

20 62. Plaintiff also continues to incur attorneys' fees and legal expenses in an
21 amount according to proof at the time of trial which fees and expenses are recoverable
22 pursuant to *Gov't Code* §12900 *et seq.*

23 **FOURTH CAUSE OF ACTION**

24 **FAILURE TO PREVENT DISCRIMINATION IN VIOLATION**

25 **OF CALIFORNIA GOVERNMENT CODE § 12940(k)**

26 **(Against All Defendants)**

27 63. Plaintiff refers to all allegations contained in paragraphs 1-62, inclusive and
28 by such reference incorporates the same herein as though fully realleged in detail.

64. During the course of employment, Defendant, and each of them, failed to prevent or remedy discrimination, retaliation and harassment toward Plaintiff on the basis of his race, national origin, age, and engagement in protected activity in violation of *Government Code* §12940(k).

65. As a direct result of the wrongful conduct of Defendant, Plaintiff suffered, and continues to suffer, substantial losses in earnings and other benefits in an amount according to proof at the time trial, including special and general damages.

66. As a direct, foreseeable, and proximate result of the wrongful conduct of Defendant, Plaintiff has suffered and continues to suffer emotional distress and anguish, humiliation, substantial losses in salary, bonuses, job benefits, and other employment benefits which he would have received all to his damage in a sum within the jurisdiction of the Court to be ascertained according to proof.

67. Plaintiff is informed and believes and thereon alleges that the outrageous conduct of Defendant, and each of them, as alleged herein, was done with oppression and malice by Plaintiff's supervisors and managers, along with conscious disregard of Plaintiff's rights, and were ratified by those other individuals who were managing agents of Defendant.

68. As a proximate result of the wrongful conduct of Defendant, and each of them, Plaintiff has suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and anguish according to proof at the time of trial.

69. These unlawful acts were further encouraged by Defendant and done with a conscious disregard for Plaintiff's rights and with the intent, design, and purpose of injuring Plaintiff. The conduct of Defendant alleged hereinabove was done with malice, fraud or oppression, and in reckless disregard of Plaintiff's rights under California law. As such, Plaintiff is entitled to punitive damages within the meaning of *Civ. Code* §3294.

70. Plaintiff has also incurred and continues to incur attorneys' fees and legal expenses in an amount according to proof at the time of trial.

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FIFTH CAUSE OF ACTION
RETALIATION IN VIOLATION OF
CALIFORNIA GOVERNMENT CODE §12940(h)
(Against All Defendants)

71. Plaintiff refers to all allegations contained in paragraphs 1-70, inclusive, and by such reference incorporates the same herein as though fully realleged in detail.

72. At all times herein mentioned, FEHA, *Government Code* §12940(h), was in full force and effect and was binding on Defendant. This statute requires Defendant to refrain from retaliating against Plaintiff.

73. Plaintiff is informed and believes and thereon alleges that as a consequence of requesting disability accommodations and medical treatment, lodging complaints about harassing and discriminatory acts being committed against Plaintiff, coupled with Plaintiff's disability and age, Defendant took retaliatory action against Plaintiff by failing to determine the essential functions of Plaintiff's job, mistreating Plaintiff, denying Plaintiff advancement and promotion, and ultimately terminating Plaintiff.

74. Defendant unlawfully retaliated against Plaintiff after he engaged in protected activity including requesting disability accommodations, medical treatment, and lodging workplace complaints related to harassment and discrimination that he was facing, and other complaints of a hostile and unsafe working environment.

75. As a proximate result of Defendant's willful, knowing, and intentional conduct against Plaintiff, he has sustained and continues to sustain substantial losses in Plaintiff's earnings and other employment benefits and continues to suffer humiliation, emotional distress, and mental and physical pain and anguish, and sleep dysfunction, all to Plaintiff damage in a sum according to proof.

76. These unlawful acts were further encouraged by Defendant and done with a conscious disregard for Plaintiff's rights and with the intent, design, and purpose of injuring Plaintiff. In light of Defendant's willful, knowing, and intentional discrimination against Plaintiff which culminated in Plaintiff discharge, Plaintiff seeks an award of

COMPLAINT

1 punitive and exemplary damages in an amount according to proof.

2 77. Plaintiff has incurred and continues to incur legal expenses and attorney
3 fees. Plaintiff is presently unaware of the precise amount of said expenses and fees and
4 prays leave of court to amend this Complaint when said amounts are more fully known.

5 **SIXTH CAUSE OF ACTION**

6 **WRONGFUL TERMINATION**

7 **(Against All Defendants)**

8 78. Plaintiff refers to all allegations contained in paragraphs 1-77, inclusive and
9 by such reference incorporates the same herein as though fully realleged in detail.

10 79. Defendant was aware that Plaintiff suffered from a disability. Further,
11 Defendant was aware of Plaintiff's complaints about his workplace environment.

12 80. *Labor Code* §232.5 makes it illegal for an employer to prohibit an
13 employee from discussing their working conditions.

14 81. *Labor Code* §6310 protects an employee's right to complain of unsafe
15 working conditions.

16 82. *Labor Code* §6400 requires employers to provide a work environment that
17 is safe for its employees.

18 83. *Gov't Code* §12940 et seq., prohibits forms of discrimination against
19 protected classes of employees.

20 84. Defendant wrongfully terminated Plaintiff in violation of a substantial and
21 fundamental public policy in that a determining and motivating factor in Defendants'
22 decision to terminate Plaintiff was the desire to discriminate against him because: (i) he
23 suffered from a disability, and (ii) he lodged complaints about his working environment.

24 85. Plaintiff is informed and believes and thereon alleges that these factors
25 made up Defendants decision to terminate Plaintiff and/or played an important and
26 integral role in said decision. Such discrimination was in violation of the public policy of
27 the State of California and resulted in damage and injury to Plaintiff as alleged herein.

28 86. As a proximate result of Defendants' willful, knowing, and intentional

1 discrimination and retaliation against Plaintiff, he has sustained and continues to sustain
 2 substantial losses in Plaintiff earnings and other employment benefits and continues to
 3 suffer humiliation, emotional distress, and mental and physical pain and anguish, and
 4 loss of sleep/sleep dysfunction, all to his damage in a sum according to proof.

5 87. In light of Defendants' willful, knowing, and intentional discrimination
 6 against Plaintiff which resulted in his wrongful termination, Plaintiff seeks an award of
 7 punitive and exemplary damages in an amount according to proof.

8 **SEVENTH CAUSE OF ACTION**

9 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *et seq.***

10 **(Against All Defendants)**

11 88. Plaintiff refers to all allegations contained in paragraphs 1-87 inclusive, and
 12 by such reference incorporates the same herein as though fully realleged in detail.

13 89. Defendant, and each of them, have engaged in unfair and unlawful
 14 business practices as set forth above.

15 90. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair
 16 business practices.

17 91. By engaging in the above-described acts and practices, Defendant, and each
 18 of them, have committed one or more acts of unfair, unlawful or fraudulent competition
 19 within the meaning of Business & Professions Code §17200 *et seq.*

20 92. Defendant, and each of them, have violated statutes and public policies.
 21 Through the conduct alleged in this Complaint, Defendant, and each of them, have acted
 22 contrary to public policies and have engaged in other unlawful and unfair business
 23 practices in violation of Business & Professions Code § 17200 *et seq.*, depriving Plaintiff
 24 and all interested persons of rights, benefits, and privileges guaranteed to all employees
 25 under law.

26 93. As a direct and proximate result of the aforementioned acts and practices,
 27 Plaintiff has suffered a loss of money and property in the form of wages and benefits that
 28 he would have received as an employee of Defendant, and each of them.

94. Plaintiff seeks an order of this Court awarding restitution, injunctive relief and all other relief allowed under Business & Professions Code §17200 *et seq.*, plus interest and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. For all actual, consequential, and incidental damages, including but not limited to loss of earnings and employee benefits, according to proof, but no less than three hundred thousand dollars (\$300,000);
2. For restitution for unfair competition pursuant to Business & Professions Code §17200 *et seq.*, resulting from Defendants' unlawful business acts and practices, according to proof;
3. For an order enjoining Defendants and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties alleged in this Complaint;
4. For pre-judgment and post-judgment interest, according to proof;
5. For punitive and exemplary damages, according to proof;
6. For attorneys' fees, according to proof and statute;
7. For costs of suit incurred herein;
8. For such other relief that the Court may deem just and proper.

Dated: February 21, 2022

SMAILI & ASSOCIATES, P.C.

By: /s/ Jihad M. Smaili

Jihad M. Smaili, Esq.
Stephen D. Counts, Esq.
Attorneys for Plaintiff

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff hereby requests a trial by jury.

Dated: February 21, 2022

SMAILI & ASSOCIATES, P.C.

By: /s/ Jihad M. Smaili


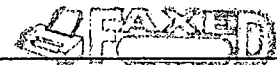
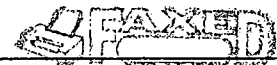
Jihad M. Smaili, Esq.

Stephen D. Counts, Esq.

Attorneys for Plaintiff

Smaili & Associates, P.C.

COMPLAINT

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Jihad M. Smaili, Esq. SBN:262219 600 West Santa Ana Blvd Suite 202 Santa Ana, Ca 92701 TELEPHONE NO.: 714-547-4700 FAX NO. (Optional): 714-547-4710 ATTORNEY FOR (Name): Plaintiff		FOR COURT USE ONLY FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO SAN BERNARDINO DISTRICT FEB 22 2022 BY  EDUARDO HERNANDEZ, DEPUTY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO STREET ADDRESS: 247 W. Third Street MAILING ADDRESS: CITY AND ZIP CODE: San Bernardino 92415 BRANCH NAME: San Bernardino District- Civil Division		CASE NUMBER: CIV SB 2201928 JUDGE:  DEPT.: 	
CASE NAME: DAVID REYES VS. AMAZON.COM SERVICES LLC			
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input checked="" type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
---	--	--

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input type="checkbox"/> Substantial amount of documentary evidence | d. <input type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): 7 Seven
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)
 Date: 2/21/2022

Jihad M. Smaili, Esq.

(TYPE OR PRINT NAME)

/s/ Jihad M. Smaili

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES**Auto Tort**

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability *(not asbestos or toxic/environmental)* (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice *(not medical or legal)*
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract *(not unlawful detainer or wrongful eviction)*
Contract/Warranty Breach—Seller Plaintiff *(not fraud or negligence)*
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage *(not provisionally complex)* (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment *(non-domestic relations)*
Sister State Judgment
Administrative Agency Award *(not unpaid taxes)*
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint *(not specified above)* (42)
Declaratory Relief Only
Injunctive Relief Only *(non-harassment)*
Mechanics Lien
Other Commercial Complaint Case *(non-tort/non-complex)*
Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition *(not specified above)* (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

BY FAX

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

DAVID REYES

Case No.: **CIV SB 2201928**

vs.

CERTIFICATE OF ASSIGNMENT

AMAZON.COM SERVICES LLC

A civil action or proceeding presented for filing must be accompanied by this Certificate. If the ground is the residence of a party, name and residence shall be stated.

The undersigned declares that the above-entitled matter is filed for proceedings in the Civil Division of the San Bernardino District of the Superior Court under Rule 131 and General Order of this court for the checked reason:

☐ General☐ Collection**Nature of Action****Ground**

- | | |
|--|---|
| <input type="checkbox"/> 1. Adoption | Petitioner resides within the district |
| <input type="checkbox"/> 2. Conservator | Petitioner or conservatee resides within the district. |
| <input type="checkbox"/> 3. Contract | Performance in the district is expressly provided for. |
| <input type="checkbox"/> 4. Equity | The cause of action arose within the district. |
| <input type="checkbox"/> 5. Eminent Domain | The property is located within the district. |
| <input type="checkbox"/> 6. Family Law | Plaintiff, defendant, petitioner or respondent resides within the district. |
| <input type="checkbox"/> 7. Guardianship | Petitioner or ward resides within the district or has property within the district. |
| <input type="checkbox"/> 8. Harassment | Plaintiff, defendant, petitioner or respondent resides within the district. |
| <input type="checkbox"/> 9. Mandate | The defendant functions wholly within the district. |
| <input type="checkbox"/> 10. Name Change | The petitioner resides within the district. |
| <input type="checkbox"/> 11. Personal Injury | The injury occurred within the district. |
| <input type="checkbox"/> 12. Personal Property | The property is located within the district. |
| <input type="checkbox"/> 13. Probate | Decedent resided or resides within or had property within the district. |
| <input type="checkbox"/> 14. Prohibition | The defendant functions wholly within the district. |
| <input type="checkbox"/> 15. Review | The defendant functions wholly within the district. |
| <input type="checkbox"/> 16. Title to Real Property | The property is located within the district. |
| <input type="checkbox"/> 17. Transferred Action | The lower court is located within the district. |
| <input type="checkbox"/> 18. Unlawful Detainer | The property is located within the district. |
| <input type="checkbox"/> 19. Domestic Violence | The petitioner, defendant, plaintiff or respondent resides within the district. |
| <input checked="" type="checkbox"/> 20. Other Labor/Employment | The Cause of action arose within the district. |
| <input type="checkbox"/> 21. THIS FILING WOULD | NORMALLY FALL WITHIN JURISDICTION OF SUPERIOR COURT |

The address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the above-designed district is:

AMAZON.COM SERVICES LLC26717 Baseline Street

NAME - INDICATE TITLE OR OTHER QUALIFYING FACTOR

ADDRESS

HighlandCA92346

CITY

STATE

ZIP CODE

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed on February 21, 2022 at 600 W. Santa Ana Blvd., Suite 202, Santa Ana, CA 92701, California.

/s/ Jihad M. Smaili

Signature of Attorney/Party



**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN BERNARDINO**

San Bernardino District
247 West 3rd St
San Bernardino CA 92415
www.sb-court.org
909-708-8678

Reyes -v- Amazon.com Services LLC et al

NOTICE OF TRIAL SETTING CONFERENCE and NOTICE OF CASE ASSIGNMENT

Case Number

CIVSB2201928

Smaili & Associates PC
600 West Santa Ana Blvd
Suite 202
Santa Ana CA 92701

This case has been assigned to: Thomas S Garza in Department S27 - SBJC for all purposes.

Notice is hereby given that the above-entitled case has been set for Trial Setting Conference on:

Hearing Date: 08/29/2022 at 9:00 AM in Department S27 - SBJC

The Trial Setting Conference will be held in chambers without the appearance of the parties – except for good cause shown. (see Emergency Local Rule 411.1).

Parties shall file and serve no later than 15 days prior to the trial setting conference the mandatory Initial Trial Setting Conference Statement form (local form #13-09001-360) included with this notice. Prior to the date of the initial trial setting conference, the court may entertain a written stipulation by all appearing parties to continue the initial trial setting conference if filed at least 30 days prior to the conference.

Date: 2/28/2022

Nancy CS Eberhardt, Court Executive Officer

By: _____

Eduardo Hernandez, Deputy Clerk

CERTIFICATE OF SERVICE

I am a Deputy Clerk of the Superior Court for the County of San Bernardino at the above-listed address. I am not a party to this action and on the date and place shown below, I served a copy of the above-listed notice by:

- ☐ Enclosed in a sealed envelope mailed to the interested party addressed above for collection and mailing this date, following standard Court practices.
- ☒ Enclosed in a sealed envelope, first class postage prepaid in the U.S. mail at the location shown above, mailed to the interested party and addressed as shown above or as shown on the attached listing.
- ☐ A copy of this notice was given to the filing party at the counter.
- ☐ A copy of this notice was placed in the bin located at this office and identified as the location for the above law firm's collection of file-stamped documents.

Date of Mailing: 2/28/2022

I declare under penalty of perjury that the foregoing is true and correct. Executed on 2/28/2022 at San Bernardino, CA.

By: _____

Eduardo Hernandez, Deputy Clerk

Jihad M. Smaili, Esq. [262219]
SMAILI & ASSOCIATES, PC
 Civic Center Plaza Towers
 600 W. Santa Ana Blvd., Suite 202
 Santa Ana, California 92701
 714-547-4700
 714-547-4710 (facsimile)
jihad@smaililaw.com

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

DAVID REYES, an individual;

Plaintiff,

v.

AMAZON.COM SERVICES LLC, a
 corporate entity form unknown; and
 DOES 1-50 inclusive,

Defendants.

Case No.: CIVSB2201920

**PLAINTIFF'S STATEMENT OF
 PUNITIVE DAMAGES
 [CCP §425.115]**

NOTICE TO: AMAZON.COM SERVICES LLC, a corporate entity form unknown

Plaintiff David Reyes reserves the right to seek \$100,000.00 in punitive damages against each of you when she seeks a judgment in the above captioned lawsuit filed against you.

Dated: March 31, 2022

SMAILI & ASSOCIATES, P.C.

By: Jihad M. Smaili
 Jihad M. Smaili, Esq.
 Attorneys for Plaintiff

STATEMENT OF PUNITIVE DAMAGES

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY		STATE BAR NUMBER	Reserved for Clerk's File Stamp	
TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (Name): FAX NO. (Optional):		TRIAL SETTING CONFERENCE DATE: _____ UNLIMITED CASE: _____ LIMITED CASE: _____		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO				
COURTHOUSE ADDRESS:				
PLAINTIFF:				
DEFENDANT:				
INITIAL TRIAL SETTING CONFERENCE STATEMENT			CASE NUMBER:	

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided. This document must be filed and served at least 15 days prior to the trial setting conference date.

- Party or parties (answer one):
 - ☐ This statement is submitted by party (name):
 - ☐ This statement is submitted jointly by parties (names):
- Service of Complaint on all parties has ☐ has not ☐ been completed.
- Service of Cross-Complaint on all parties has ☐ has not ☐ been completed.
- Description of case in Complaint:
- Description of case in Cross-Complaint:
- Has all discovery been completed: Yes ☐ No ☐ Date discovery anticipated to be completed: _____
- Do you agree to mediation? Yes ☐ No ☐ Please check type agreed to: Private: _____ Court-sponsored: _____
- Related cases, consolidation, and coordination: Please attach a Notice of Related Case.

☐ A motion to ☐ consolidate ☐ Trial dates requested: Yes ☐ No ☐ Available dates: _____

Time estimate: _____
- Other issues:

☐ The following additional matters are requested to be considered by the Court:
- Meet and Confer:

☐ The parties represent that they have met and conferred on all subjects required by California Rules of Court, Rule 3.724.

☐ The parties have entered into the following stipulation(s):
- Total number of pages attached (if any): _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the Initial Trial Setting Conference, including the written authority of the party where required.

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

EXHIBIT B

SEYFARTH SHAW LLP
Jamie C. Pollaci (SBN 244659)
jpollaci@seyfarth.com
Irina G. Rosenberg (SBN 287024)
irosenberg@seyfarth.com
2029 Century Park East, Suite 3500
Los Angeles, California 90067-3021
Telephone: (310) 277-7200
Facsimile: (310) 201-5219

Attorneys for Defendant
AMAZON.COM SERVICES LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

DAVID REYES, an individual,

Plaintiff,

v.

AMAZON.COM SERVICES LLC, a corporate
entity form unknown; and DOES 1-50, inclusive,

Defendants.

Case No. CIV-SB-2201928

**DEFENDANT AMAZON.COM SERVICES
LLC'S ANSWER TO PLAINTIFF DAVID
REYES' COMPLAINT**

Date Complaint Filed: February 22, 2022

AMAZON.COM SERVICES LLC ("Defendant") hereby answers the unverified Complaint for
Damages of DAVID REYES (Plaintiff"), as follows:

GENERAL DENIAL

Pursuant to California Code of Civil Procedure section 431.30(d), Defendant denies generally
each allegation and each purported cause of action in the Complaint, and without limiting the generality
of the foregoing, denies that Plaintiff has been damaged in any amount, or at all, by reason of any acts or
omissions of Defendant.

AFFIRMATIVE AND SEPARATE DEFENSES

FIRST DEFENSE

(Failure to State a Claim)

1. Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action against Defendant.

SECOND DEFENSE

(Statute Of Limitations- All Causes of Action)

2. Plaintiff's claims, in whole or in part, are barred by the applicable statute of limitations, including, but not limited to, Government Code sections 12960 and 12965, Code of Civil Procedure sections 335.1 and 338, and Business and Professions Code section 17208.

THIRD DEFENSE

(Failure To Exhaust Administrative Remedies - All Causes Of Action)

3. Plaintiff's claims, in whole or in part, are barred because Plaintiff has failed to exhaust his administrative remedies or to comply with the statutory prerequisites for bringing suit.

FOURTH DEFENSE

(Laches - All Causes Of Action)

4. Plaintiff's claims are barred, in whole or in part, by the doctrine of laches because Plaintiff delayed unreasonably in bringing his claims.

FIFTH DEFENSE

(Consent And Waiver - All Causes Of Action)

5. Plaintiff's claims are barred, in whole or in part, by the doctrines of consent and waiver.

SIXTH DEFENSE

(Estoppel - All Causes Of Action)

6. Because of Plaintiff's own acts or omissions, Plaintiff is barred by the equitable doctrine of estoppel from maintaining this action or pursuing any cause of action alleged in the Complaint against Defendant.

SEVENTH DEFENSE

(Unclean Hands - All Causes Of Action)

7. Plaintiff's claims are barred, in whole or in part, by the doctrine of unclean hands.

EIGHTH DEFENSE

(Ratification - All Causes Of Action)

8. Plaintiff's claims are barred, in whole or in part, on the ground that Plaintiff ratified Defendant's alleged actions.

NINTH DEFENSE

(Failure To Mitigate Damages - All Causes Of Action)

9. Defendant alleges, based on information and belief, that Plaintiff had the ability and opportunity to mitigate the purported damages alleged in the Complaint and failed to act reasonably to mitigate such damages. To the extent that Plaintiff suffered any damages as a result of the facts alleged in his Complaint, which Defendant denies, Plaintiff is not entitled to recover the amount of damages alleged or any damages due to his failure to make reasonable efforts to mitigate or minimize the damages incurred. By reason of the foregoing, Plaintiff is barred in whole or in part from recovery of damages from Defendant.

TENTH DEFENSE

(Failure To Exercise Reasonable Preventive Corrective Opportunities - All Causes Of Action)

10. To the extent any of Defendant's employees or agents engaged in unlawful discriminatory or retaliatory behavior toward Plaintiff, Defendant is not liable for any such discrimination or retaliation, or Plaintiff's damages must be reduced, because Defendant exercised reasonable care to prevent and correct promptly any such behavior, and Plaintiff unreasonably failed to take advantage of any preventative or corrective opportunities provided or to otherwise avoid harm.

ELEVENTH DEFENSE

(Workers' Compensation Preemption - All Causes Of Action)

11. Plaintiff's claims for certain damages, such as for alleged emotional and/or physical injury, are preempted and barred by the exclusive remedies of the California Workers' Compensation Act, California Labor Code section 3200, *et seq.*, inasmuch as they involve an employer/employee

relationship subject to workers' compensation coverage, conduct of Plaintiff undertaken in the course and scope of his alleged employment with Defendant, and injuries alleged by Plaintiff to have been proximately caused by his employment with Defendant.

TWELFTH DEFENSE

(After-Acquired Evidence - All Causes Of Action)

12. Plaintiff's claims are barred, or his damages, if any, are limited, to the extent he engaged in any misconduct of which Defendant was unaware until after Plaintiff's separation from employment that provides independent legal cause for the changes in his employment.

THIRTEENTH DEFENSE

(Prompt Remedial Action - All Causes Of Action)

13. Defendant took prompt and appropriate corrective action in response to Plaintiff's complaints or stated concerns regarding the workplace, if any, thereby satisfying all legal duties and obligations Defendant had to Plaintiff, if any at all.

FOURTEENTH DEFENSE

(Legitimate Non-Discriminatory/Non-Retaliatory Actions - All Causes Of Action)

14. Plaintiff's claims are barred, in whole or in part, because Defendant had a legitimate business reason that was non-discriminatory and non-retaliatory for all actions taken with respect to Plaintiff's employment.

FIFTEENTH DEFENSE

(Mixed Motive - All Causes Of Action)

15. Any monetary recovery on Plaintiff's Complaint, or any purported cause of action alleged therein, is barred because assuming arguendo that discriminatory or retaliatory reasons had been a motivating factor in any decisions toward Plaintiff, which Defendant expressly denies, Defendant would have made the same decisions toward Plaintiff in any case for legitimate, non-discriminatory and non-retaliatory business reasons. *See Harris v. City of Santa Monica*, 56 Cal. App. 4th 203 (2013).

SIXTEENTH DEFENSE

(Award Of Punitive Damages Is Unconstitutional - All Causes Of Action)

16. To the extent that Plaintiff seeks punitive or exemplary damages in his Complaint, he violates the rights of Defendant to protection from “excessive fines” as provided in the Eighth Amendment to the United States Constitution and in Article I, Section 17 of the Constitution of the State of California and the rights of Defendant to procedural and substantive due process under the Fifth and Fourteenth Amendments to the United States Constitution and under the Constitution of the State of California.

SEVENTEENTH DEFENSE

(Setoff And Recoupment - All Causes Of Action)

17. To the extent a court or arbitrator holds that Plaintiff is entitled to damages, which is specifically denied, Defendant is entitled under the equitable doctrine of setoff and recoupment to offset all overpayments Defendant made to Plaintiff and/or all obligations that Plaintiff owed to Defendant against any judgment that may be entered against Defendant.

EIGHTEENTH DEFENSE

(Offset - All Causes Of Action)

18. Any recovery on Plaintiff’s Complaint, or any purported cause of action alleged therein, is barred in whole or in part because Defendant is entitled to an offset for any monies Plaintiff received from any source after Plaintiff ceased to be employed under the doctrine prohibiting double recovery set forth by *Witt v. Jackson*, 57 Cal. 2d 57 (1961), and its progeny.

NINETEENTH DEFENSE

(Undue Hardship - All Causes Of Action)

19. To the extent that Plaintiff requested accommodations that were not reasonable or would cause Defendant undue hardship, and thus were not required, Plaintiff’s claims fail.

TWENTIETH DEFENSE

(Good Faith Effort to Engage in Interactive Process - All Causes of Action)

20. Plaintiff's claims are barred, in whole or in part, because, assuming he was legally disabled, Defendant made a good faith effort to engage in the interactive process with, and to reasonably accommodate, Plaintiff.

TWENTY-FIRST DEFENSE

(Plaintiff's Failure To Engage In An Interactive Process - All Causes Of Action)

21. Plaintiff's claims are barred, in whole or in part, to the extent Plaintiff failed to participate in good faith, or at all, in an interactive process with Defendant regarding his purported need for a reasonable accommodation for his alleged disability.

TWENTY-SECOND DEFENSE

(Reasonable Accommodation - All Causes of Action)

22. Plaintiff's claims are barred, in whole or in part, because Defendant fulfilled whatever obligation it may have had to reasonably accommodate Plaintiff's alleged disability to the extent possible in light of business necessities.

TWENTY-THIRD DEFENSE

(Inability to Perform Essential Job Function - All Causes of Action)

23. Plaintiff's claims are barred, in whole or in part, because Plaintiff is or was unable to perform all of the essential job functions for his position, or any open alternative position for which he was qualified, even with reasonable accommodation.

TWENTY-FOURTH DEFENSE

(Reasonableness And Good Faith - All Causes Of Action)

24. Plaintiff's claims are barred in whole or in part by the fact that any decisions made by Defendant with respect to Plaintiff's employment were reasonably based on the facts as Defendant understood them in good faith.

TWENTY-FIFTH DEFENSE

(Managerial Privilege - All Causes Of Action)

25. Any injuries Plaintiff sustained as a result of any action by Defendant are barred to the extent that any and all decisions made and actions taken were in the exercise of proper managerial discretion and in good faith.

TWENTY-SIXTH DEFENSE

(Health And Safety Of Plaintiff And Others - All Causes Of Action)

26. Plaintiff's claims are barred in whole or in part to the extent that Plaintiff could not perform the essential duties of his position in a manner that would not endanger the employee's health or safety or the health or safety of others, even with reasonable accommodations.

TWENTY-SEVENTH DEFENSE

(Adequate Legal Remedy - All Causes Of Action)

27. Plaintiff's request for injunctive relief is improper because Plaintiff has an adequate remedy at law.

TWENTY-EIGHTH DEFENSE

(Lack of Standing - Seventh Cause of Action)

28. Plaintiff's Complaint, and any purported claim for relief alleged therein, is barred to the extent Plaintiff agreed to arbitrate claims alleged in the Complaint. The seventh cause of action fails to the extent that Plaintiff lacks the requisite standing to sue under Proposition 64, enacted on November 2, 2004, as California Business and Professions Code § 17204. Under Proposition 64, any plaintiff suing for an alleged violation of the California Unfair Competition Law (the "UCL"), California Business and Professions Code § 17200, *et seq.*, must show that he or she has suffered an injury in fact, in addition to simply alleging a loss of money or property. Since Plaintiff cannot allege the requisite injury in fact, in addition to the requisite loss of money or property, Plaintiff lacks standing to sue under the UCL.

RESERVATION OF RIGHTS

Defendant does not presently know all of the facts and circumstances respecting Plaintiff's claims. Defendant has not knowingly or intentionally waived any applicable defenses and reserves the right to assert and rely on such other applicable defenses as may later become available or apparent. Defendant further reserves the right to amend its answer or defenses accordingly and/or to delete defenses that it determines are not applicable during the course of discovery.

PRAYER

WHEREFORE, Defendant prays for judgment as follows:

1. That Plaintiff takes nothing by way of his Complaint;
2. That the Complaint be dismissed in its entirety with prejudice;
3. That judgement be entered in favor of Defendant and against Plaintiff on his entire Complaint and on all causes of action alleged therein;
4. That Defendant be awarded reasonable attorneys' fees according to proof;
5. That Defendant be awarded the costs of suit herein incurred; and
6. That Defendant be awarded such other and further relief as the Court or arbitrator may deem appropriate.

DATED: May 11, 2022

Respectfully submitted,

SEYFARTH SHAW LLP

By: 

Jamie C. Pollaci
Irina G. Rosenberg
Attorneys for Defendant
AMAZON.COM SERVICES LLC

PROOF OF SERVICE

STATE OF CALIFORNIA)
) SS
 COUNTY OF LOS ANGELES)

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 2029 Century Park East, Suite 3500, Los Angeles, California 90067-3021. On May 11, 2022, I served the within document(s):

DEFENDANT AMAZON.COM SERVICES LLC'S ANSWER TO PLAINTIFF DAVID REYES' COMPLAINT

- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California, addressed as set forth below.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by placing the document(s) listed above, together with an unsigned copy of this declaration, in a sealed envelope or package provided by an overnight delivery carrier with postage paid on account and deposited for collection with the overnight carrier at Los Angeles, California, addressed as set forth below.
- ☐ by transmitting the document(s) listed above, electronically, via the e-mail addresses set forth below.
- ☐ electronically by using the Court's ECF/CM System.

SMAILI & ASSOCIATES, PC
 Jihad M. Smaili, Esq.
 Stephen D. Counts, Esq.
 Civic Center Plaza Towers
 600 W. Santa Ana Boulevard, Suite 202
 Santa Ana, CA 92701

T: 714-547-4700; F: 714-547-4710

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stephen@smaililaw.com

Attorneys for Plaintiff
 DAVID REYES

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 11, 2022, at Los Angeles, California.

Denise Wasko-Pena

NATIONWIDE LEGAL

COURT INSTRUCTIONS

PHONE (213) 249-9999

FAX (213) 249-9990



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062 - RUSH PDF FILING (3 HRS)**FIRM NAME: & ADDRESS:**

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SAN BERNARDINO/CIVIL
247 WEST 3RD STREET, SAN BERNARDINO, CA 92415

CASE# CIVSB2201928

CASE TITLE: DAVID REYES, VS. AMAZON.COM SERVICES LLC,

DOCUMENTS: DEFENDANT AMAZON.COM
SERVICESLLC'S ANSWER TO PLAINTIFF
DAVIDREYES' COMPLAINT

STATUTE DATE: 5/11/2022**HEARING DATE:****DEPT. S27****NLS DATE REC'D: 5/11/2022**

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SPECIAL INSTRUCTIONS

File today via Drop Box and Advance First Appearance fee and follow up with conformed copy.

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